Recommendations for the Transformation of Forensic and Diversion Services in Texas

Background

Like states across the country, Texas faces a growing crisis in effectively serving Texans with mental illnesses that are involved with the criminal justice system. The number of individuals found incompetent to stand trial and added to Texas' waitlist for competency restoration services continues to increase, with over 1100 individuals on the forensic waitlist and 70% of state hospital beds in Texas currently utilized by the forensic population. A systematic approach to forensic and diversion services is needed to both reduce the number of individuals entering the criminal justice and more efficiently utilize resources for individuals who need them.

Recommendations

1. **Create an Office of Forensic Services that is responsible for the coordination and contractual development and management of all forensic services funded by the state.**

At present, no central body coordinates forensic services across the Health and Human Services Commission (HHSC). A central coordinating office will ensure a comprehensive and strategic systems-level approach to forensic and diversion services between community-based services, state psychiatric hospitals, and state supported living centers. An Office of Forensic Services would also help to facilitate the uptake and consistent implementation of demonstrated best practices across the entire state.

2. **Develop a comprehensive state-level strategic plan for the coordination and oversight of forensic services in Texas.**

As of July 2020, the state forensic waitlist has grown to over1100 individuals, and there is no comprehensive and coordinated plan to address the systemic drivers of this waitlist. A strategic plan would establish priorities, programs, and processes to improve forensic and diversion services, including how to reduce and triage the forensic waitlist; identify measures for quality and effectiveness; and ensure coordination internally and with multiple system stakeholders, external partners, settings, and disciplines. The Texas Statewide Behavioral Health Strategic Plan is a model on which the plan can be based. This new Forensic Behavioral Health plan could potentially be attached to or incorporated into the Statewide Behavioral Health Strategic Plan.

3. **Expand and contract for diversion programs around the state.**

Pre-arrest and pre-booking diversion programs have demonstrated success in preventing individuals with mental and substance use disorders from entering the criminal justice system and promote alternatives to arrest, jails, and emergency rooms for law enforcement. Diversion programs should be tailored to the community and may include models based on The Harris Center, Crisis Intervention Teams, and law enforcement and behavioral health co-responder models.

4. **Expand, improve and contract for OCR programs around the state.**

To reduce the number of individuals waiting for competency restoration services in state hospitals, outpatient competency restoration (OCR) and jail-based competency restoration programs (JBCR) are

effective alternatives. HHSC currently funds OCR and JBCR programs and should expand capacity across the state. Additionally, standards of practice based on demonstrated successful programs should be written into contractual language for these programs.

5. **Implement the Joint Committee on Access and Forensic Services (JCAFS) recommendations for the state hospital forensic program.**

These recommendations are:

- Continue and fully implement the "562 review process" which is designed to allow the state hospital team to determine whether an individual requires placement in a maximum security bed or a non-maximum security bed.

- Implement throughout the state hospital system the new Competency to Stand Trial report template that was approved by the System Medical Executive Committee at their November 2019 meeting.

- Establish and implement a mechanism to monitor the timeframes for steps in the competency restoration process for the state hospitals.

- Request funding to renovate and operationalize up to 180 beds that have been previously identified as currently unused and feasible to rehabilitate and utilize. In the alternative, if it is determined that it is more cost effective to construct new beds, then request funding for an equal number of new beds.

6. **Implement the JCAFS recommendations for jail outreach programs.**

Collaborative jail outreach programs partner Local Mental Health Authorities with jails to start individuals on medications as soon as possible after arrest, ensure individuals are maintained on medication while they are in jail, re-evaluate these individuals prior to transfer to the state hospital for competency restoration to make sure they are still incompetent, and provide post discharge support in jail after they are restored and returned. These programs are currently piloted at several jails and have been successful in both shortening lengths of stay in competency restoration programs and in removing individuals from the forensic waitlist who are no longer found incompetent to stand trial.

7. **Contractually require a forensics and diversion coordinator from each LMHA.**

Locating a forensic coordinator in each LMHA would ensure coordination with the state hospitals, courts, jails, law enforcement, and community corrections. This position would also support an efficient flow of individuals through the competency restoration process and improve continuity of care.